

SENATE BILL 547

By Crowe

AN ACT to amend Tennessee Code Annotated, Title 9,
relative to lease financing by local public entities.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 9, is amended by adding the following
as a new chapter:

9-24-101. Short title.

This chapter is known and may be cited as the "Uniformity in Local Government
Lease Financing Act of 2021."

9-24-102. Chapter definitions.

As used in this chapter, unless the context otherwise requires:

(1) "Exempt lease financing":

(A) Means a lease financing with a principal amount not
exceeding one hundred thousand dollars (\$100,000); and

(B) Does not include a lease financing if the principal amount of
that lease financing together with the principal amount of all exempt lease
financings issued by the public entity previously in the same fiscal year
exceeds one hundred thousand dollars (\$100,000);

(2) "Governing body" means the body in which the general legislative
powers of a public entity are vested;

(3) "Interest rate" means an interest rate determined using the true
interest cost method and taking into account estimated financing costs and
charges in determining such rate;

(4) "Lease" means an agreement for the use of property under which a public entity is the lessee;

(5) "Lease financing" means any lease under which:

(A) The rental payments payable thereunder by the public entity include an identifiable interest component; or

(B) The lessee has the right to purchase the property that is subject to the lease at a price that is not based upon the fair market value of the property at the time of the purchase;

(6) "Non-appropriation clause " means a provision in a lease financing that, in effect, allows a governing body to terminate a lease financing by not appropriating funds to make payments under the lease financing in any fiscal year;

(7) "Public entity":

(A) Has the same meaning as defined in § 9-21-134; and

(B) Does not include the state; and

(8) "State" means the state of Tennessee and any agency, authority, branch, bureau, commission, corporation, department, or instrumentality of the state.

9-24-103. Relationship to other laws.

This chapter does not expand the authority of any public entity to enter into any lease financing. The authority of any public entity, if any, to enter into a lease financing is derived from the powers of the public entity as set forth in other applicable laws. This chapter does not limit the authority of any public entity to enter into any lease financing, except as is specifically provided in this chapter.

9-24-104. Terms applicable to lease financings.

(a) Public entities shall comply with the following requirements in connection with approving and entering into any lease financing that is not an exempt lease financing:

(1) Prior to entering into a lease financing, a public entity shall obtain the approval of the comptroller of the treasury or the comptroller's designee pursuant to subsection (b), which approval must be submitted to the governing body of the public entity for consideration in connection with any authorization of such a lease financing;

(2) The weighted average maturity of the principal payments under the lease financing must not exceed the estimated weighted average life of the property that is financed through the lease financing;

(3) The public entity shall not enter into a lease financing with respect to property unless the public entity is authorized by applicable law to incur indebtedness to finance such property, and the term of any lease financing must not exceed the maximum term of debt that could be issued by the public entity to finance the property being leased;

(4) If the indebtedness of the public entity is only payable pursuant to applicable law from all or any portion of the revenues of the public entity, the payments by the public entity under the lease financing must only be payable from such revenues; and

(5) If the lease payments under the lease financing are payable from or secured by ad valorem taxes of the public entity and the term of the lease financing exceeds the maximum term of a capital outlay note that may be issued by the public entity under chapter 21, part 6 of this title, the public entity shall not enter into the lease financing without adopting and publishing an initial resolution with respect to the lease financing in the manner described in chapter 21, part 2

of this title, if an initial resolution is required with respect to the type of property being financed, and, if required by the terms of such part, undertaking an election with respect to the lease financing in the manner required by that part.

(b)

(1) When requesting approval of the comptroller, the public entity shall submit a plan of lease financing to the comptroller of the treasury or the comptroller's designee. The comptroller of the treasury or the comptroller's designee may request any additional information as may be required to properly review the proposed plan of lease financing. The comptroller of the treasury or the comptroller's designee shall evaluate each plan of lease financing based on the plan's particular circumstances and shall approve the plan only if a determination is made that the repayment terms are in the public's interest.

(2) The comptroller of the treasury or the comptroller's designee shall report the comptroller's approval or disapproval of the plan of lease financing to the governing body within fifteen (15) business days after receipt of the plan and all requested supplemental documentation.

(3) The governing body may take action on the proposed plan of lease financing:

(A) After receiving the approval of the comptroller of the treasury or the comptroller's designee of the plan of lease financing; or

(B) After the expiration of fifteen (15) business days from the date the plan of lease financing is received by the comptroller of the treasury or the comptroller's designee and no disapproval having been reported by the comptroller of the treasury or the comptroller's designee, whichever date is earlier, the governing body may take such action with reference to

the proposed plan of lease financing as it deems advisable in accordance with this part.

(4) The state funding board is authorized to establish guidelines, rules, or regulations with respect to the comptroller of the treasury's approval of lease financing.

(c) A non-appropriation clause in the documents evidencing the lease financing is not required for the lease financing to be a valid obligation of the public entity.

9-24-105. Taxation of property subject to lease financing.

All property leased by a public entity is deemed to be property owned by the public entity for purposes of all taxation of the state or any public entity, and such property is exempt from all such taxation to the extent property owned by the public entity is otherwise exempt from taxation.

9-24-106. Applicability clause.

The terms of this chapter apply to any lease financing authorized by a governing body of a public entity on or after January 1, 2022.

SECTION 2. The headings to sections in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 3. This act takes effect upon becoming a law, the public welfare requiring it.